

ORDINANCE NO. 051224
0-07-46

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances of the City of Gainesville, by creating and adding an Article VII, under Chapter 2 of the Code, entitled "Registered Domestic Partnerships," providing for registered domestic partnerships and setting forth the rights and legal effects of such partnerships; amending Appendix "A" by creating and adding a section entitled "Registered Domestic Partnerships," setting forth fees; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, it is in the best interest of the City of Gainesville ("City") to be responsible to the changing needs of society and to treat all persons fairly and equitably; and

WHEREAS, the City recognizes that long-term committed relationships foster economic stability and emotional and psychological bonds; and

WHEREAS, many Fortune 500 and leading technology companies provide employment incentives for Domestic Partners; and

WHEREAS, the existence of a domestic partner registry in the City may encourage companies to locate in or around the City, and assist in efforts to recruit employees and workers to move to the Gainesville area; and

WHEREAS, the existence of a domestic partner registry and the rights conferred therewith may encourage residents, both within and without the City limits, including telecommuters whose home office may be outside the City limits, to patronize and utilize facilities subject to the rights conferred by the domestic partner registry; and

WHEREAS, evidence indicates that the existence of a domestic partner registry will promote the City's reputation as a growing, vibrant and diverse community, and encourage participation in and use of community resources by residents and visitors alike; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of

1 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the
2 Auditorium of City Hall in the City of Gainesville; and

3 **WHEREAS**, the Public Hearings were held pursuant to the published notice described at
4 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
5 heard; and

6 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
7 **CITY OF GAINESVILLE, FLORIDA:**

8 **Section 1.** Article VIII of Chapter 2, Code of Ordinances of the City of Gainesville,
9 consisting of sections 2-610 through 2-613, is hereby created and added to read as follows:

10 ARTICLE VIII. REGISTERED DOMESTIC PARTNERSHIPS

11 **Sec. 2-610. Definitions**

12 Committed relationship means a family relationship, intended to be of indefinite duration,
13 between two individuals characterized by mutual caring and the sharing of a mutual residence.

14 Declaration of Registered Domestic Partnership means the document that is filed with the Clerk
15 of the Commission's office according to the procedures established in section 2-611.

16 Dependent is a person who resides within the household of a Registered Domestic Partnership
17 and is:

- 18 1. a biological, adopted, or foster child of a Registered Domestic Partner; or
- 19 2. a dependent as defined under IRS regulations; or
- 20 3. a ward of a Registered Domestic Partner as determined in a guardianship or other
21 legal proceeding.

22 Mutual residence means a residence shared by the Registered Domestic Partners; it is not
23 necessary that the legal right to possess the place of residence be in both of their names. Two

1 people may share a mutual residence even if one or both have additional places to live.

2 Registered Domestic Partners do not cease to share a mutual residence if one leaves the shared
3 place but intends to return.

4 Registered Domestic Partnership means a committed relationship between two persons who
5 consider themselves to be a member of each other's immediate family and have registered their
6 partnership in accordance with section 2-611.

7 **Sec. 2-611. Registration, amendment, termination and administration procedures.**

8 **(a) Registration.**

9 (1) Declaration of Registered Domestic Partnership. A declaration of Registered
10 Domestic Partnership shall be filed with the Clerk of the Commission and shall contain
11 the names and addresses of the applicants who shall swear or affirm under penalty of
12 perjury that each partner:

13 a. is at least 18 years old and competent to contract;

14 b. is not married to, or a member of another Registered Domestic Partnership
15 or civil union, with anyone other than the co-applicant.

16 c. agrees to share the common necessities of life and to be responsible for
17 each other's welfare.

18 d. considers the mutual residence to be his or her primary residence.

19 e. considers himself or herself to be a member of the immediate family of the
20 other partner; and

21 f. agrees to mutually support the other by contributing in some fashion, not
22 necessarily equally, to maintain and support the Registered Domestic Partnership.

1 (2) Each partner agrees to immediately notify the Clerk of the Commission, in
2 writing, if the terms of the Registered Domestic Partnership are no longer applicable or
3 one of the domestic partners wishes to terminate the domestic partnership.

4 (b) Amendment.

5 Registered Domestic Partners may amend a Registered Domestic Partnership previously filed
6 with the Clerk of the Commission to show a change in his or her household address or to add or
7 delete dependents. Amendments shall be signed by both members of the Registered Domestic
8 Partnership under penalty of perjury.

9 (c) Termination.

10 (1) Termination statement. A Registered Domestic Partner may terminate the
11 Registered Domestic Partnership by filing a termination statement with the Clerk of the
12 Commission. The person filing the termination statement shall swear or affirm under
13 penalty of perjury that:

14 (a) The Registered Domestic Partnership is to be terminated; and

15 (b) If the termination statement is not signed by both Registered Domestic
16 Partners, a copy of the termination statement shall be served, by certified or
17 registered mail, on the other Registered Domestic Partner, and proof of service
18 shall be filed with the Clerk of the Commission, and/or other good faith efforts are
19 made to notify the other Registered Domestic Partner, as described in an affidavit
20 filed with the Clerk of the Commission.

21 (2) Effective date. The termination shall become effective on the date of filing of the
22 termination statement signed by both Registered Domestic Partners or if the termination
23 statement is not signed by both parties, on the date proof of service or a good faith efforts

1 affidavit is filed with the Clerk of the Commission pursuant to subsection (c)(1)(b).

2 above.

3 (3) Automatic termination. A Registered Domestic Partnership shall automatically

4 terminate upon the following events:

5 a. One of the Domestic Partners marries;

6 b. One of the Domestic Partners dies; or

7 c. One of the Domestic Partners enters into a civil union with someone other

8 than his or her Registered Domestic Partner.

9 d. Registers with another Domestic Partner.

10 (d) Administration

11 (1) Forms. The Clerk of the Commission shall provide forms for the establishment,

12 amendment, and termination of Registered Domestic Partnerships, and otherwise be

13 responsible for implementing and interpreting the provisions of this article.

14 (2) Certificate of Registered Domestic Partnership. The Clerk of the Commission

15 shall issue to the Registered Domestic Partners a certificate of Registered Domestic

16 Partner no later than 10 business days after the declaration of Registered Domestic

17 Partnership is filed.

18 (3) Maintain records. The Clerk of the Commission shall maintain copies of the

19 declaration of Registered Domestic Partnerships, any and all amendments thereto,

20 certificates of Registered Domestic Partnership, and termination statements filed by

21 Registered Domestic Partners.

22 **Sec. 2-612. Rights and Legal Effect of Registered Domestic Partnership.**

1 To the extent not superseded or preempted by federal, state, or county law or ordinance, or
2 contrary to rights conferred by contract or separate legal instrument, Registered Domestic
3 Partners shall have the following rights:

4 (a) Health care facility visitation.

5 The term “health care facility” includes, but is not limited to, hospitals, convalescent facilities,
6 walk-in clinics, doctor’s offices, mental health care facilities, and other short and long term
7 facilities located within, or under the jurisdiction of, the City. All health care facilities operating
8 within the City shall allow a Registered Domestic Partner the same visitation rights as a spouse
9 (or parent, if the patient is a dependent of the Registered Domestic Partnership) of the patient. A
10 dependent of a Registered Domestic Partner shall have the same visitation rights as a patient’s
11 child.

12 (b) Funeral/Burial decisions.

13 Following the death of a Registered Domestic Partner, the surviving partner shall have the same
14 rights to make decisions with regard to funeral/burial decisions and disposition of the decedent’s
15 body as a surviving spouse. The surviving partner shall retain these rights notwithstanding the
16 automatic termination provision of section 2-611(c)(3)b.

17 (c) Notification of family members.

18 In any situation providing for mandatory or permissible notification of family members,
19 including, but not limited to, notification of family members in an emergency, or when
20 permission is granted to inmates to contact family members, “notification of family” shall
21 include Registered Domestic Partners, provided the domestic partner has notified the person,
22 entity or agency of such request..

23 (d) Preneed guardian designation.

1 Any person who is registered as a Registered Domestic Partner pursuant to this Article shall have
2 the same right as any other individual to be designated as a pre need guardian pursuant to section
3 744.3045, Florida Statutes, and to serve in such capacity in the event of his or her Declarant
4 Registered Domestic Partner’s incapacity. A Registered Domestic Partner shall not be denied or
5 otherwise be defeated in serving as the plenary guardian of his or her Registered Domestic
6 Partner or the partner’s property, under the provisions of Chapter 744, Florida Statutes, to the
7 extent that the incapacitated partner has not executed a valid preneed guardian designation, based
8 solely upon his or her status as the domestic partner of the incapacitated partner.

9 (e) Correctional facility visitation rights.

10 The term “correctional facility” includes, but is not limited to, holding cells, jails, and juvenile
11 correction centers of any kind, located within or under the jurisdiction of the City. A Registered
12 Domestic Partner shall have the same visitation rights at all correctional facilities operating
13 within the City as a spouse (or parent, if the person in custody is a dependent of the Registered
14 Domestic Partnership) of a person in custody. A dependent shall have the same visitation rights
15 afforded to the child of a person in custody.

16 (f) Participation in education.

17 A Registered Domestic Partner shall have the same rights to participate in the education of a
18 dependent of the Registered Domestic Partnership as a parent to participate in the education of
19 their child, in all educational facilities located within or under the jurisdiction of the City. This
20 includes the right of a Registered Domestic Partner to participate in the home schooling of a
21 dependent in accordance with Florida law.

22 **Sec. 2-613. Rights and Legal Effect of Registered Domestic Partnership.**

- 1 (a) Nothing in this article shall be interpreted to alter, affect, or contravene county, state, or
 2 federal law, or apply to county, state, or federal agencies, or officers or employees thereof, when
 3 acting in their official capacities.
- 4 (b) Nothing in this article shall be construed as recognizing or treating a Registered Domestic
 5 Partnership as a marriage.
- 6 (c) All rights, privileges, and benefits extended to Registered Domestic Partnerships
 7 registered pursuant to this article shall also be extended to all persons legally partnered in another
 8 jurisdiction.
- 9 (d) A Registered Domestic Partner may enforce the rights under sec. 2-612 by filing a private
 10 action against a person or entity in any court of competent jurisdiction for declaratory relief,
 11 injunctive relief, or both.

12 **Section 2.** Registered Domestic Partnerships of Appendix A of the Code of Ordinances
 13 of the City of Gainesville, is hereby created and added to read as follows:

14 REGISTERED DOMESTIC PARTNERSHIPS

15 Filing fee for Declaration of Registered Domestic Partnership

16 City Residents \$10.00

17 Non-City Residents \$20.00

18 Fee for amending or terminating the Declaration of Registered Domestic Partnership

19 City Residents \$10.00

20 Non-City Residents \$20.00

21 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
 22 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of

1 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
2 or relettered in order to accomplish such intentions.

3 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
4 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
5 affect the validity of the remaining portions of this ordinance.

6 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
7 such conflict hereby repealed.

8 **Section 6.** This ordinance shall become effective immediately upon final adoption.

9 **PASSED AND ADOPTED** this 23rd day of July, 2007.

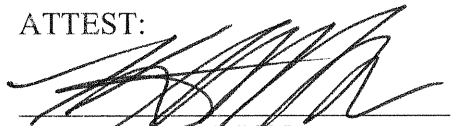
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PEGEEEN HANRAHAN, MAYOR


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ATTEST:



KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality

 07/23/07

MARION T. RADSON
CITY ATTORNEY

19 This Ordinance passed on first reading this 9th day of July, 2007.

20 This Ordinance passed on second reading this 23rd day of July, 2007.